

EXHIBIT F

In The Matter Of:
Newell Rubbermaid, Inc. vs.
Kirsch Lofts, LLC

David Meiri, Ph.D.
June 3, 2016



Bingham Farms/Southfield • Grand Rapids
Ann Arbor • Detroit • Flint • Jackson • Lansing • Mt. Clemens • Saginaw

Original File MEIRI_PH.D._DAVID.txt
Min-U-Script® with Word Index

Page 1

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION
4 NEWELL RUBBERMAID, INC.,)
5 Plaintiff/Counter-Defendant,)
6 vs.)1:15 cv-00597-RJJ
7 KIRSCH LOFTS, LLC,)
8 Defendant/Counter-Plaintiff.) VOLUME I
9
10 The discovery deposition of DAVID MEIRI, Ph.D.,
11 taken in the above-entitled cause, before
12 Barbara Manning, on the 3rd day of June, 2016, at the
13 hour of 1:06 p.m. at 233 South Wacker Drive,
14 Suite 6600, Chicago, Illinois, pursuant to notice.
15
16
17
18
19
20
21
22
23 Reported by: Barbara Manning, CSR
24 License No.: 084-003277
25

Page 2

1 APPEARANCES:
2 BILA & ASSOCIATES, PLLC
3 BY: MR. DENNIS W. BILA, II
4 321 Spring Street, Suite A
5 Harbor Springs, Michigan 49740
6 (231) 526-9678
7 and
8 GABRIELSE LAW, PLC
9 BY: MR. CARL J. GABRIELSE
10 carl@gabrielselaw.com
11 301 Hanover Boulevard, Suite 300
12 Holland, Michigan 49423
13 (616) 403-0374
14
15 Representing the
16 Plaintiff/Counter-Defendant;
17
18 SCHIFF HARDIN, LLP
19 BY: MR. GABRIEL M. RODRIQUEZ
20 grodriquez@schiffhardin.com
21 233 South Wacker Drive, Suite 6600
22 Chicago, Illinois 60606
23 (312) 258-5516
24
25 Representing the
Defendant/Counter-Plaintiff;

GOLDSTEIN & MC CLINTOCK, LLLP
BY: MR. DANIEL C. CURTH
danc@goldmclaw.com
208 South LaSalle Street, Suite 1750
Chicago, Illinois 60604
(312) 337-7700
Representing the Deponent.

Page 3

I N D E X		PAGE
1	WITNESS	
2	DAVID MEIRI, Ph.D.	
3	BY MR. BILA, II	4
4		
5		
E X H I B I T S		PAGE
6	NUMBER	
7	Exhibit 1 Project Review and Financial Meeting, 9-9-10	15
8	Exhibit 2 Evaluation of Remedial Alternatives	59
9	Exhibit 3 Project Review Meeting, 2-11-11	63
10	Exhibit 4 Project Review Meeting, 12-5-11	69
11	Exhibit 5 Sturgis Master Schedule, 3-29-11	76
12	Exhibit 6 Letter from Mr. Meiri to Mr. Franks dated 4-6-11	79
13	Exhibit 7 Project Tasks and Schedule, 5-10-11	82
14	Exhibit 8 Project Tasks and Schedule, 5-22-11	84
15	Exhibit 9 Project Tasks and Schedule, 6-9-11	85
16	Exhibit 10 Project Tasks and Schedule-NARA	86
17	Exhibit 11 Remediation Design and Implementation Outline	89
18		
19		
20		
21		
22		
23		
24		
25		

Page 4

1 (Witness sworn)
2 DAVID MEIRI, Ph.D.
3 called as a witness herein, having been first duly
4 sworn, was examined and testified as follows:
5 EXAMINATION
6 BY MR. BILA, II:
7 Q. Mr. Meiri, we met briefly before the
8 deposition. My name is Dennis Bila.
9 A. For the record I am Dr. Meiri, not Mr. Meiri.
10 Q. Dr. Meiri, you were subpoenaed here today by
11 my client. Could you state your full name for the
12 record?
13 A. David Meiri, M-e-i-r-i.
14 Q. And with whom do you work?
15 A. AECOM, A-E-C-O-M.
16 Q. And what does AECOM do?
17 A. It's engineering consulting company.
18 Q. And how long have you worked for AECOM?
19 A. AECOM bought URS. So it's about ten years.
20 Q. And is that with AECOM or with AECOM/URS?
21 A. AECOM/URS.
22 Q. And what did you do -- who did you work
23 before that merger -- who -- what did you do prior to
24 ten years ago?
25 A. RETEC, R-E-T-E-C.

<div>Page 21</div> <div> <p>1 A. Yes, you can say.</p> <p>2 Q. And you glanced at some of the records that</p> <p>3 you produced. Did you pull any specific records out</p> <p>4 and review them in any greater detail?</p> <p>5 A. I did not.</p> <p>6 Q. And when you say you produced records, did</p> <p>7 you individually produce records or did you direct</p> <p>8 staff to do it?</p> <p>9 A. I don't quite follow your question.</p> <p>10 Q. Sure. You said you produced some records.</p> <p>11 Did you personally pull those records and produce them</p> <p>12 or did you direct a staff member to pull certain</p> <p>13 records and produce them?</p> <p>14 A. I did it.</p> <p>15 Q. Were the records that you produced stored</p> <p>16 electrically or in boxes? How are they maintained?</p> <p>17 A. Electronically.</p> <p>18 Q. And how were you able to figure out what to</p> <p>19 produce? Did you search through electric folders? Is</p> <p>20 there one folder that has everything in it, and you</p> <p>21 just produced everything?</p> <p>22 A. We had a project file electronically, very</p> <p>23 well organized, and I just have familiarity, enough</p> <p>24 familiarity, of this project that I can look in the</p> <p>25 folder directory. And I can pull up the document so</p> </div>	<div>Page 23</div> <div> <p>1 Q. Do you know when -- it says this</p> <p>2 investigation -- it says, "Investigation from May</p> <p>3 through August, 2010." Is that accurate?</p> <p>4 A. As far as my recollection, yes.</p> <p>5 Q. What was the investigation?</p> <p>6 A. As is stated here, soil investigation.</p> <p>7 Q. And what did you have to do?</p> <p>8 A. Collect soil samples.</p> <p>9 Q. From where?</p> <p>10 A. From the Kirsch source area.</p> <p>11 Q. From this report or anything in it can you</p> <p>12 point to me a specific area where the investigation</p> <p>13 took place?</p> <p>14 A. If you look on slide number 11, if you see</p> <p>15 the former Kirsch source area, it's the red shaded</p> <p>16 area on both side of Prospect.</p> <p>17 Q. And what did the investigation entail. I</p> <p>18 know you said soil sampling, but how do you do that?</p> <p>19 A. Normally we are using sort of delivery in</p> <p>20 deriving a sample, can be stainless steel, a tube if</p> <p>21 you will, and drive it to the ground and displace the</p> <p>22 soil until it's inside the hollow, in the tube that is</p> <p>23 hollow. So soil enter from the bottom.</p> <p>24 Then we retrieve the tube. We open it and</p> <p>25 inspect and take, collect, sample and send to the</p> </div>
<div>Page 22</div> <div> <p>1 for me it's pretty clear, a very simple road map</p> <p>2 there.</p> <p>3 Q. There are more than one of these types of</p> <p>4 presentations. Was it a rolling document that you</p> <p>5 updated each time or did you create a new one from</p> <p>6 scratch every time?</p> <p>7 MR. CURTH: Objection to form.</p> <p>8 THE WITNESS: This is a mix of both.</p> <p>9 BY MR. BILA, II:</p> <p>10 Q. All right. Would you please turn to page 17</p> <p>11 of Exhibit 1. The top line reads -- top two lines</p> <p>12 read, "Kirsch source area soil investigation and</p> <p>13 results."</p> <p>14 Were you involved in the -- did an</p> <p>15 investigation take place?</p> <p>16 A. Pardon me?</p> <p>17 Q. Did an investigation actually take place?</p> <p>18 A. Yes.</p> <p>19 Q. Were you involved in that investigation?</p> <p>20 A. Yes.</p> <p>21 Q. What was your role?</p> <p>22 A. Project manager.</p> <p>23 Q. So you oversaw the people who undertook the</p> <p>24 investigation?</p> <p>25 A. To some degree.</p> </div>	<div>Page 24</div> <div> <p>1 laboratory.</p> <p>2 Q. And then for this particular investigation,</p> <p>3 is that what you did?</p> <p>4 A. In a very broad sense. It's a little more</p> <p>5 complicated than I had described, but usually we use</p> <p>6 auger in order to drive.</p> <p>7 Inside the auger you have this tube, but</p> <p>8 essentially we are driving a sample into the ground to</p> <p>9 different depths.</p> <p>10 And we collect the sample, retrieve from</p> <p>11 certain depths, collect the sample and inspect and</p> <p>12 ship it to the laboratory.</p> <p>13 Q. Do you know how many samples you retrieved</p> <p>14 for this investigation?</p> <p>15 A. I don't remember.</p> <p>16 Q. Do you know who owned the property at the</p> <p>17 time you were performing this investigation?</p> <p>18 MR. CURTH: Objection, foundation, form.</p> <p>19 THE WITNESS: I know that whatever we did we had</p> <p>20 access to the property whoever the owner at the time.</p> <p>21 BY MR. BILA, II:</p> <p>22 Q. Do you know whether or not you had to go to</p> <p>23 the owner to get access or did you have another route?</p> <p>24 A. We have another route.</p> <p>25 Q. What was that other route?</p> </div>

Page 25

1 **A. The legal. I go to the legal department, to**

2 **Newell Rubbermaid legal.**

3 Q. And I guess do you know whether -- let me

4 rephrase that.

5 Do you know whether the owner provided you

6 with access on each occasion or whether you had a

7 legal right through an easement to get access to the

8 site?

9 **A. I don't know.**

10 Q. Were you ever denied access to the site?

11 **MR. CURTH:** Objection, foundation.

12 **THE WITNESS:** As I said before, we -- I

13 personally, we, the company, we do it. I am going to

14 my client, and this is the client responsibility to

15 provide me the access. That's the end of my

16 responsibility.

17 **BY MR. BILA, II:**

18 Q. Sure. And I am asking -- I am being very

19 specific in that question.

20 Did you ever go to the site and have someone

21 deny you access?

22 **MR. CURTH:** Objection, foundation.

23 **THE WITNESS:** The answer is no. I wouldn't go to

24 a site if I don't have any access before I go to the

25 site.

Page 26

1 **BY MR. BILA, II:**

2 Q. Would you please turn to page 19. And I

3 don't believe it's numbered, but it precedes 20.

4 **A. Got it.**

5 Q. 19 suggests that 43 borings were advanced.

6 Does that -- would that most likely be accurate for

7 the west parcel of the property?

8 **A. Yes.**

9 Q. And it says most borings were from zero to

10 60 feet. Were borings done at deeper depths?

11 **A. No, not in this particular phase, no.**

12 Q. Do you know what the results of the

13 investigation were, and feel free to review your

14 report? And I might direct you to page 20 if that

15 helps -- or pages. Let me rephrase that question.

16 Take a look at pages 20, 21 and 22, and tell

17 me if you can address my question, what the results of

18 the investigation revealed?

19 **A. As you see here, the result reveal that you**

20 **have certain level of TCE and PCE and certain depths**

21 **from zero to 60 feet below grade over the parcel.**

22 Q. Do you recall as we sit here today what the

23 contamination levels -- what you believe the

24 contamination levels were prior to this investigation?

25 **A. I don't.**

Page 27

1 Q. Do you recall as we sit here today whether or

2 not this investigation revealed something that you

3 believed was new information?

4 **A. Let me answer by this. Every time you**

5 **collect sample you get a new information so this is no**

6 **different from any other boring that I do.**

7 **If I knew before, I wouldn't do the boring.**

8 **I don't know before, and that's why we do this.**

9 Q. And that's fair. So let's just focus on the

10 west parcel.

11 Did the soil borings that you did on the west

12 parcel reveal that there had been a change from what

13 you had previously understood the contamination levels

14 to be?

15 **A. There is no answer to this because I have no**

16 **information before. I was not involved in any**

17 **investigation on the west parcel before. So I have no**

18 **opinion what was before and what would be after.**

19 Q. So your first knowledge of any contamination

20 on the west side, on the west parcel, was when this

21 investigation was done?

22 **A. Yes.**

23 Q. Would you please turn to page 23. This page

24 is entitled Kirsch Source Area Remedial Alternatives

25 Evaluation. Do you see that?

Page 28

1 **A. Yes.**

2 Q. Were different technologies being considered

3 to remediate the contamination?

4 **MR. CURTH:** Objection, foundation.

5 **THE WITNESS:** Yes.

6 **BY MR. BILA, II:**

7 Q. Who was the one who was making the

8 determination as to which technology would be best

9 suited for this site?

10 **A. Ultimately it would be the Michigan DEQ, the**

11 **agency.**

12 Q. Who compiled these different technologies for

13 this report?

14 **A. My company.**

15 Q. And was that based on something that you

16 personally recommended or was it something that

17 some -- an underling brought to you and said here is

18 the different alternatives that we have available to

19 us?

20 **A. I personally.**

21 Q. And it says several technologies were

22 considered. Who was doing the considering?

23 **A. My staff.**

24 Q. So you met with your staff. You proposed

25 several different technologies, and then together as a

Page 85

1 everything accordingly. So as I say earlier, these

2 are dynamic processes. When we prepare the schedule,

3 we don't have all of the pieces.

4 You get another piece of information, you

5 update the schedule and everything is shifting. So I

6 think that's the same year, I believe.

7 (Whereupon, Exhibit

8 No. 9 was marked for

9 identification.)

10 BY MR. BILA, II:

11 Q. We are now looking at Exhibit 9 which is an

12 updated project task schedule dated June 9, 2011,

13 true?

14 A. Yes.

15 Q. And as of as shown on line 30, the system

16 was still supposed to be -- the SVE system was still

17 supposed to be operational by August 6, 2012?

18 A. What line are you?

19 Q. 30.

20 A. Yes.

21 Q. So at least as of the date of all of the

22 schedules that we have just looked at, you had

23 scheduled the SVE system to be operational no later

24 than August 6, 2012?

25 A. Yes.

Page 86

1 (Whereupon, Exhibit

2 No. 10 was marked for

3 identification.)

4 BY MR. BILA, II:

5 Q. I have just shown you Exhibit 10 which is a

6 Project Tasks and Schedule - NARA. What does NARA

7 stand for?

8 A. I don't recall.

9 Q. I was hoping to try and determine the date

10 this schedule was prepared, and I want you to look at

11 line four.

12 A. Yep.

13 Q. And first I want to see if there is a typo

14 here. The start date says, 9-11-2012, one day to

15 complete, finish date Tuesday 9-11-2012.

16 Is it likely that this report was prepared on

17 9-10 based on that and that was just a typo, Tuesday,

18 9-10 or Tuesday, 9-11.

19 I am just trying to find out when this report

20 was generated, and I was wondering if that helped you

21 to know.

22 A. I don't see any date in the report so I

23 cannot say.

24 Q. Do you think it was prepared on

25 September 11th or the 10th?

Page 87

1 A. I cannot answer this.

2 Q. The leachate study that was to be performed

3 which is discussed at line seven --

4 A. Yes.

5 Q. -- now has a start date of April 29, 2013.

6 Do you see that?

7 A. Yes.

8 Q. Every other document that we have looked at

9 so far has moved the leachate test a few days but

10 always kept them in the year 2011.

11 Now you are moving it out one-and-a-half

12 years all of a sudden. Do you recall what prompted

13 that?

14 A. Number three.

15 Q. "MDEQ approves revised plans for an

16 additional" -- "for additional response activities"?

17 A. You really have to read one through three

18 together.

19 Q. Okay. So number one, "Notice of additional

20 response activities received from MDEQ," April, 2011,

21 true?

22 A. Correct.

23 Q. Do you recall what the additional response

24 activities were?

25 A. Yes.

Page 88

1 Q. What were they?

2 A. Michigan DEQ by the statute of the superfund

3 required us to complete additional -- basically was

4 ordered to complete the additional activity.

5 And that's the trigger, the process for us to

6 put together a plan, and it took us to get this plan

7 approved for additional activity by September 11,2012.

8 So this is required, mandated by the EPA, and

9 we completed this and approved on September 11, '12.

10 Q. And it shows zero days to complete, start

11 date 9-11-2012. That's because it was already done?

12 A. Well, I didn't want to break it down so

13 basically to keep it short I put a zero day, but

14 basically this is kind of -- you notice this is

15 landmark, basically milestone, completed notice.

16 Q. But it was already done?

17 A. I believe from my recall I think

18 September 11, '12 -- I will have to look in the

19 record, but I believe this was the date it was

20 approved, I believe. And I have to look, and you

21 probably have the document, too, so you can tell.

22 Q. Well, that's why I am getting -- so some

23 additional response activities were received from the

24 MDEQ in April, 2011. Newell submitted its response in

25 August, 2012.

Page 97

Page 99

1 **THE WITNESS:** The simple answer to this is for to
2 review the process when the work plan was submitted,
3 when the work plan was approved, when the field were
4 conducted and the well was completed.
5 Whereas, the report was submitted and where
6 the report was approved, and that's really we
7 follow -- that's the line of the timeline. There is
8 no magic to this.
9 **BY MR. BILA, II:**
10 Q. I am not saying there is magic. I am saying
11 I don't understand it. It says, "Newell submitted" --
12 this is line two on Exhibit 10.
13 "Newell submit to MDEQ, revised plan for
14 additional response." That was done on August 22,
15 2012. And 20 days or so later, "The MDEQ approved the
16 plan."
17 So it took them 20 days to approve it, true,
18 or so? I am not saying exact number.
19 **A. Not true.**
20 Q. How many days did it take them between the
21 time Newell submitted the revised plan for additional
22 response until MDEQ approved the revised plan for
23 additional response?
24 **A. You have to read between one to two, what**
25 **happened between one to two. What is missing here is**

1 one and the time Newell responded by submitting to
2 MDEQ a revised plan for additional response set forth
3 in line item two?
4 **MR. CURTH:** Objection, form, mischaracterizes the
5 exhibit.
6 **THE WITNESS:** This is the easiest question you
7 asked me so far. When you receive this additional
8 activity, agency give you a deadline to submit the
9 response, and you will respond to number one on time.
10 I don't have this captured in this Exhibit
11 No. 10. We submitted the response on time. Agency
12 went back and forth, back and forth, and by August,
13 2012 we reach to acceptable version of this.
14 So what you don't see here and is not
15 captured here is the number of duration that took
16 place between one to two. So to say that Newell
17 submitted the response in August is completely and
18 totally incorrect.
19 **BY MR. BILA, II:**
20 Q. So on line two when you said, "Newell submits
21 to MDEQ revised plan for additional response on
22 August 22, 2012," that's totally and completely
23 incorrect?
24 **A. This is not the fist response.**
25 Q. I didn't say it was.

Page 98

Page 100

1 we did not capture on this every single event.
2 We submitted to the agency work plan and
3 revised the work plan and perhaps a second revision.
4 What you see in number two is a revised plan.
5 It does not tell you how many revisions we had before
6 we got to this number two. My point between one to
7 two a lot of life happen.
8 Q. Yes.
9 **A. So by the time you got to two, the report was**
10 **basically completed to the satisfaction if you will of**
11 **the agency.**
12 **Therefore, it took them only a few days to**
13 **approve these. But it took us over a year from**
14 **April 11 to August 12 to get the plan almost approved.**
15 Q. So what your testimony is you got -- number
16 one, notice of additional response activities were
17 received from the MDEQ on April 27, 2011 and you --
18 I'm sorry. Newell submitted a revised plan 16 months
19 later?
20 **MR. RODRIGUEZ:** Objection.
21 **THE WITNESS:** No, totally incorrect.
22 **BY MR. BILA, II:**
23 Q. How many months elapsed between the time
24 Newell received the notice of additional response
25 activities received from MDEQ set forth in line item

1 **A. No. But you said it took Newell to respond**
2 **year-and-a-half, and when I say to you that we did**
3 **respond to the agency on time based on their timeline.**
4 Q. Do you recall was there a timeline August 22,
5 2012 or something before that?
6 **A. Much earlier we responded to this.**
7 Q. That wasn't my question. You said you
8 responded to a deadline -- by a deadline that they had
9 set. Do you recall what that deadline was?
10 **A. No.**
11 Q. So the record will show that you -- or Newell
12 submitted revised plans for additional responses prior
13 to August, 2012, but there were many of them and this
14 was just the culmination?
15 **A. Correct. This is my record. This is**
16 **something I kept for myself. I keep to myself only**
17 **the final, the revision. I don't keep track -- I keep**
18 **track. You probably have a copy of all of them.**
19 **But I for my schedule I keep the final one.**
20 **This I keep. But I have in my record which I am sure**
21 **that you have all of the different iteration.**
22 Q. And I am not trying to trick you or trap you.
23 I am trying to figure out what these reports mean.
24 So as I understand it now, Newell received a
25 response -- or received a notice of an additional